IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 28154 of 2006(B)

PETITIONERS:

---

1. P.R. SARALA, PANICKKASERY HOUSE,
   20/229/45, MARUTHI APARTMENTS,
   ADIYATTU LANE, POOTHOLE, THRISSUR-4.

2. P.R. SUGASREE, PANICKASSERY HOUSE,
   20/229/45, MARUTHI APARTMENTS,
   ADIYATTU LANE, POOTHOLE, THRISSUR-4.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

---

1. THE DISTRICT COLLECTOR, THRISSUR.

2. THE SUB DIVISIONAL MAGISTRATE,
   THRISSUR.

3. THE TAHSILDAR, TALAPPILLY TALUK,
   WADAKKANCHERRY P.O., THRISSUR DISTRICT.

4. THE VILLAGE OFFICER,
   KANIYARCODE VILLAGE P.O.,
   THIRUVILLWAMALA, THRISSUR DISTRICT.

5. SRI.P. HARIDAS,
   C/O.PANTHALLOOR KARTHIYANIAMMA,
   PANTHALLOOR HOUSE, KANIYARCODE P.O.,
   THRISSUR DISTRICT.

6. SRI.P. PRABHAKARAN,
   C/O.PANTHALLOOR KARTHIYANIAMMA,
   PANTHALLOOR HOUSE, KANIYARCODE P.O.,
   THRISSUR DISTRICT.

7. SRI.PANTHALLOOR MOHANDAS,
C/O. PANTHALLOOR KARTHIYANIAMMA,
PANTHALLOOR HOUSE, KANIYARCODE P.O.,
THRISSUR DISTRICT.

BY ADV. SRI.K.P.VIJAYAN-R5, R6
SRI.V.M.SYAM KUMAR-R5,R6

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006 THE Court ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.28154 OF 2006

APPENDIX:

PETITIONER'S EXHIBITS:

EXT.EXT.P1- TRUE COPY OF the JUDGMENT OF THIS HONOURABLE Court IN W.P.(C). NO5448/05 DATED 23-3-2006.

EXT.P2- TRUE COPY OF the REPORT OF the DISTRICT COLLECTOR REFERRED TO THE EXT.P1 JUDGMENT DATED NIL.

EXT.P3- TRUE COPY OF the ORDER ISSUED BY the 2ND RESPONDENT DATED 30-9-2006.

K.BALAKRISHNAN NAIR, J.

W.P.(C).NO.28154 of 2006-B

Dated this the 15th day of December, 2006

JUDGMENT

The petitioners are aggrieved by the conversion of paddy fields in their neighborhood, owned by respondents 5 to 7. The said dispute was the subject matter of Ext.P1 judgment of this Court. This Court directed the Revenue Divisional Officer to consider the petitioners' grievance against conversion and also the representation filed by respondents 5 to 7, seeking permission for conversion. But, instead of taking action as directed by this Court, the second respondent R.D.O. has issued Ext.P3 notice purportedly under Sec.133 of the Cr.P.C. The petitioners submit that proceedings under Sec.133 of Cr.P.C. will not lie and the notice under the Section has been initiated only to make the respondents 5 to 7 to approach this Court or other Forums seeking relief against the orders of the R.D.O. So, they pray that Ext.P3 may be quashed and the second respondent may be directed to complete the proceedings under the Kerala Land Utilisation Order as directed by this Court in Ext.P1 judgment.

2. The party respondents have filed a detailed counter

affidavit. They also in effect agree with the contention of the petitioners that proceedings initiated as per Ext.P3 is without jurisdiction.

3. Heard learned counsel on both sides. Normally, if the direction of this Court in Ext.P1 is not obeyed, the petitioners have to initiate contempt of Court case, against the second respondent. But, they point out that since the said respondent has initiated proceedings by issuing Ext.P3, contempt of Court case may not lie. But the second respondent is trying to deny the relief to the petitioners. So, they pray that the first respondent may be directed to implement the direction of this Court in Ext.P1 judgment. They feel that they may not get justice from the second respondent. The learned counsel for the party respondents also submitted that they want a decision on their application for conversion, by the second respondent. By issuing Ext.P3, their grievances regarding non-consideration of their application for conversion is still subsisting.

4. I heard the learned Government Pleader for the official respondents also. Since, this Court by Ext.P1 judgment has already directed the second respondent to take a decision in the matter, I feel that it is not proper for me to direct the District

Collector to intervene in the case. Further, I agree with the view expressed by both sides that the proceedings initiated under Sec.133 of the Cr.P.C. is unsustainable.

5. Accordingly, the second respondent herein is directed to hear both sides and pass final orders on the petitions, filed by the petitioners against conversion of land and also the applications filed by the party respondents, for conversion. This the second respondent shall do, within one month from the date of production of a copy of this judgment.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,JUDGE.

MS